

REMARKS

This is in response to the Office Action mailed on June 14, 2003, in which the drawings were objected to under 37 CFR § 1.83(a), the specification was objected to under 37 CFR § 1.75(d)(1), claim 3 was rejected under 35 U.S.C. § 112, and claims 1-2, 6-9 and 10 were rejected under 35 U.S.C. § 103.

In the previous Office Action the Examiner stated that the Wion patent did not disclose an articulated figure having leg members each having three articulated segments. The Applicant mistakenly adopted the Examiner's characterization of the Wion patent. To clarify this misunderstanding, it is respectfully submitted that Wion does disclose an articulated figure with leg and arm members each having three articulated segments.

The articulated figure shown in Fig. 1 of Wion has first and second leg members comprised of three articulated segments: a thigh component 16 and 17, a calf component 19 and 20, and a foot component 23 and 24. Thigh components 16 and 17 are pivotally attached to calf components 19 and 20, which, in turn, are pivotally attached to foot components 23 and 24. Likewise, the Wion articulated figure has first and second arm members comprised of an upper arm component 16 and 17 which is pivotally attached to a lower arm components 8 and 9, which, in turn, is pivotally attached to a hand component 10 and 11. Therefore, Wion discloses an articulated figure having leg and arm members each having three articulated segments. This characterization of Wion is relevant to the meaning of the term "articulated segment" in claim 9, which is discussed further below.

Drawing Objection - 37 CFR 1.83(a)

The drawings were objected to under CFR 1.83(a) for not showing every feature of the invention specified in the claims. Specifically, the Examiner objected to the drawings for failing to show leg and arm members each having three articulated segments as recited in claim 9. With this Amendment, the terms "leg member" and "arm member" have been replaced with the terms "leg appendage" and "arm appendage." These changes have been made to facilitate the interpretation of claim 9 and are not intended to change in any way the scope or meaning of claim 9.

It is respectfully submitted that the drawings disclose arm and leg appendages each having three articulated segments as recited in claim 9. For example, Fig. 1, shows first and second leg appendages 16 and 17, which include three segments: an upper leg portion 22A and 22B, a lower leg portion 24A and 24B and a foot 26A and 26B. Each of these leg segments has at least one articulation point located thereon. Upper leg portions 22A and 22B are pivotally attached to torso 15 via articulation points 14D and 14E, lower leg portions 24A and 24B are pivotally attached to upper leg portions 22A and 22B via articulation points 14J and 14K, and feet 26A and 26B are pivotally attached to lower leg portions 24A and 24B via articulation points 14L and 14M. Thus, first and second leg appendages 16 and 17 each have three articulated segments.

In the same respect, first and second arm appendages 18 and 19 each also have three segments (upper arm portion 28A and 28B, lower arm portion 30A and 30B, and hands 32A and 32B) which are pivotally connected at articulation points. Therefore, it is respectfully submitted that the drawings disclose leg and arm appendages each having three articulated segments, and accordingly the objection to the drawings under CFR 1.83(a) should be withdrawn.

Specification Objection – 37 CFR 1.75(d)(1)

The specification was objected to under 37 CFR 1.75(d)(1) for failing to provide proper antecedent basis for the claimed subject matter. The Examiner objected to the specification for failing to provide proper antecedent basis for the terms "leg members" and "arm members" in claims 6-11 and 17. In addition, the Examiner objected to the specification for failing to provide antecedent basis for the requirement in claim 9 that each leg and arm member have three articulated segments.

With this Amendment, claims 6-11 and 17 have been amended to replace the terms "leg member" and "arm member" with the terms "leg appendage" and "arm appendage." Both of these terms are used in the specification. As a result the specification provides proper antecedent basis for claims 6-11 and 17 and the objection to the specification should be withdrawn. Claims 6-11 and 17 are still in condition for allowance since the changes are not material.

The specification provides proper antecedent basis for the requirement in claim 9 that each leg and arm appendage have three articulated segments for the same reasons that the drawings show leg and arm members each having three articulated segments. Therefore, it is respectfully submitted that the objection to the specification should be accordingly withdrawn.

Claim Rejections - 35 USC § 112

Claim 3 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Examiner objected to the phrase "plurality of magnets" in claim 3 because claim 1 recites a magnet and claim 3 depends from claim 1. With this Amendment, claim 3 has been amended to read as an independent claim. As such claim 3 is no longer indefinite. Accordingly, the rejection of claim 3 under 35 U.S.C. § 112 should be withdrawn.

Claim Rejection - 35 U.S.C. § 103

Claims 1-2, 6-8, and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith in view of Wion. Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith in view of Wion and Mckittrick, Jr. et al.

Independent claim 1 recites a character object comprising an artistic layer fixed to at least one magnet. The artistic layer is formed of sheet material including a torso having a plurality of articulation points and a plurality of appendages. Each appendage is pivotally connected to the torso at one of the torso articulation points such that each appendage may be pivoted with respect to the torso.

The Examiner rejected claim 1 by combining the teachings of Wion and Smith. Smith was cited as disclosing a character object (doll 16) comprising an artistic layer (paper applique 20) and at least one magnet (magnetic body 18) fixed to the artistic layer as recited in claim 1. The Examiner noted that Smith failed to disclose any articulation points and cited Wion to overcome this deficiency. Wion discloses an articulated figure having body and limb components formed from flexible magnetic material.

For an invention to be rejected under 35 U.S.C. § 103(a) as being obvious, there must have been some suggestion or motivation to combine the prior art teachings. See M.P.E.P. 2143.

If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. M.P.E.P. 2143.01, citing In re Gordon, 221 U.S.P.Q. 1125 (Fed. Cir. 1984). The articulated figure of Wion is designed to be configured into a multitude of poses through manipulation of the articulated body and limb components. This positional flexibility would be negated by affixing the Smith semi-flexible ceramic magnetic body 18 and its corresponding paper applique 20. Significant changes would have to be made to both the semi-flexible ceramic body 18 and the paper applique 20 before the Wion articulated figure would be suitable for its intended use. These changes are not taught or suggested by either Smith or Wion and, consequently, the making of the proposed combination requires the exercise of impermissible hindsight. Therefore, the proposed combination is not proper because neither Smith or Wion contain any suggestion or motivation to do so. As a result, the rejection of claim 1 under 35 U.S.C. § 103 should accordingly be withdrawn.

Claims 2, 6, and 8 depend from claim 1. Because of this dependency claims 2, 6, and 8 are allowable with parent claim 1. The rejections to these claims under 35 U.S.C. § 103 should accordingly be withdrawn

Dependent claim 9 recites the artistic layer of claim 1 with the additional limitation that the artistic layer's plurality of appendages comprise first and second leg appendages each having three articulated segments and first and second arm appendages each having three articulated segments. The Examiner rejected claim 9 by combining the teachings of Smith, Wion, and McKittrick. For the reasons previously stated, the consideration of McKittrick in regards to claim 9 is not necessary. Since claim 9 depends from claim 1, it is respectfully submitted that the rejection of claim 9 under 35 U.S.C. § 103 should accordingly be withdrawn.

Objection to Claims Depending from Rejected Base Claim

Claims 3-5 were objected to as depending from a rejected base claim. However, the Examiner indicated that claims 3-5 were allowable if rewritten in independent form. With this Amendment, the suggested changes have been made and claims 3-5 are now in condition for allowance.

New Claim

Dependent claim 21 is added to further capture the invention. None of the prior art references teach, suggest, or disclose the limitations of newly added claim 21. Claim 21 is allowable over the cited references and notice to that effect is respectfully requested.

CONCLUSION

In view of the foregoing, all pending claims are now in condition for allowance. Reconsideration and notice to that effect is respectfully requested. Any inquiries regarding this application should be directed to David Fairbairn at (612) 339-1863.

Respectfully submitted,

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